

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

Christine Thomsen, Donna Miller,) Case No. 1:22-cv-10271-TLL-PTM
Shelbi Farrington, Dianna Kometh,)
Sally Labree, Harry Peterson, Patrick) Honorable Thomas L. Ludington
Burnham, David Teverbaugh, Richard) Magistrate Patricia T. Morris
Journagin, and Gale Marie Jackson, on)
behalf of themselves and all others)
similarly situated,) **STIPULATION REGARDING**
) **NOTICE OF SETTLEMENT**
Plaintiffs,) **AND REQUEST TO SET**
) **BRIEFING SCHEDULE**
v.)
) **CLASS ACTION**
Morley Companies, Inc.,)
)
Defendant.

Defendant Morley Companies, Inc. (“Morley”) and Plaintiffs Christine Thomsen, Donna Miller, Shelbi Farrington, Dianna Kometh, Sally Labree, Harry Peterson, Patrick Burnham, David Teverbaugh, Richard Journagin, and Gale Marie Jackson (“Plaintiffs” and, together with Morley, the “Parties”), respectfully submit this stipulation to notify the Court that a settlement has been reached in the above-captioned matter and request that this Court enter an order that (1) sets May 26, 2022 as Plaintiffs’ deadline to file a Second Amended Class Action Complaint; (2) sets July 11, 2022 as Plaintiffs’ deadline to file their Motion for Preliminary Approval of

Class Action Settlement; and (3) vacates all other case deadlines (the “Stipulation”).

In support of the Stipulation, the Parties state as follows:

1. On February 10, 2022, the original complaint in the present action was filed against Morley. *See* ECF No. 1.
2. Beginning on February 11, 2022, and through March 3, 2022, five related complaints were also filed against Morley. *See Miller v. Morley Cos., Inc.*, No. 1:22-cv-10284-TLL-PTM (filed on Feb. 11, 2022); *Kometh, et al. v. Morley Cos., Inc.*, Case No. 1:22-cv-10311-TLL-PTM (filed on February 15, 2022); *Teverbaugh v. Morley Cos., Inc.*, Case No. 1:22-cv-10321-TLL-PTM (filed on February 15, 2022); *Journagin v. Morley Cos., Inc.*, Case No. 1:22-cv-10443-TLL-PTM (filed on February 28, 2022); *Jackson v. Morley Cos., Inc.*, Case No. 2:22-cv-10469-GAD-KGA (filed on March 3, 2022). As of the date of this Stipulation, all of the above related complaints have been voluntarily dismissed without prejudice. *See Miller, et al.*, Case No. 1:22-cv-10284-TLL-PTM (notice of voluntary dismissal filed on March 16, 2022); *Kometh, et al.*, Case No. 1:22-cv-10311-TLL-PTM (notice of voluntary dismissal filed March 14, 2022); *Teverbaugh*, Case No. 1:22-cv-10321-TLL-PTM (notice of voluntary dismissal filed March 17, 2022); *Journagin*, Case No. 1:22-cv-10443-TLL-PTM (notice of voluntary dismissal filed on March 16, 2022); *Jackson*, Case No. 2:22-cv-10469-GAD-KGA (notice of voluntary dismissal filed on March 23, 2022).

3. Plaintiffs in the *Miller, Kometh, Teverbaugh, Journagin*, and *Jackson* cases joined in the above-captioned action. Specifically, Plaintiffs Donna Miller, Shelbi Farrington, Diana Kometh, Sally Labree, Harry Peterson, Patrick Burnham, David Teverbaugh, Richard Journagin, and Gale Marie Jackson joined Plaintiff Christine Thomsen and filed an Amended Class Action Complaint, on behalf of themselves and on behalf of all others similarly situated, in the present litigation on March 14, 2022, asserting against Morley purported causes of action for (1) negligence, (2) negligence *per se*, (3) breach of implied contract, (4) unjust enrichment, and (5) declaratory judgment. ECF No. 7.

4. Two additional related cases were also filed against Morley in Michigan State Court and District Court of the Eastern District of Michigan on February 17 and 18, 2022 respectively, *i.e.*, after commencement of the above-captioned, first-filed action. *See Cable, et al v. Morley Cos., Inc.*, Case No. 22-046585-CZ-5 (the “*Cable Action*”); *Ratcliff v. Morley Cos., Inc.*, 1:22-cv-10360-TLL-PTM (the “*Ratcliff Action*”).

5. On March 31, 2022, Morley removed the *Cable Action* to District Court for the Eastern District of Michigan. *See Cable, et al. v. Morley Cos., Inc.*, 1:22-cv-10692-TLL-PTM. In its Notice of Removal, Morley notified the Court that the *Cable Action* is a “companion case” to the *Thomsen Action*. Accordingly, the *Cable*

Action was reassigned to Your Honor as a “companion case” to this action on April 5, 2022. *See* 1:22-cv-10692-TLL-PTM, ECF No. 6.

6. Following removal, Morley and plaintiffs in the *Cable* Action met and conferred about how the case should proceed and agreed to stipulate to extend Morley’s responsive pleading deadline from April 7, 2022, until thirty days after the Court issues a ruling on any motion to remand in the *Cable* Action. The Court entered the Stipulated Order Extending Responsive Pleading Deadline in the *Cable* Action on April 11, 2022. *See* 1:22-cv-10692-TLL-PTM, ECF No. 8.

7. Like the *Cable* Action, the *Ratcliff* Action was flagged as a possible “companion case” to the above-captioned litigation upon filing of the complaint. *See* 1:22-cv-10360-TLL-PTM, ECF No. 1. Consequently, the *Ratcliff* Action was also assigned and is presently pending before Your Honor.

8. Thereafter, Morley moved to stay the *Ratcliff* Action pending resolution of this action on March 26, 2022 and in light of the previously-scheduled April 20, 2022 mediation scheduled in this action (discussed in further detail below). *See* 1:22-cv-10360-TLL-PTM, ECF No. 5. Plaintiff Ratcliff opposed Morley’s motion on April 11, 2022, *see* 1:22-cv-10360-TLL-PTM, ECF No. 11, and Morley filed a reply in further support of its motion to stay pending resolution of this action on April 18, 2022, ECF No. 12. The Court has not ruled on Morley’s motion to stay the *Ratcliff* Action.

9. Since the filing of the original complaint in this action, the Parties have been meeting and conferring and working towards possible early resolution of this case. To that end, the Parties set mediation for April 20, 2022, and stipulated to extend Morley's responsive pleading deadline from March 28, 2022, to May 12, 2022, so that Morley could file its responsive pleading if the April 20 mediation was unsuccessful. The Court entered the Stipulated Order Extending Responsive Pleading Deadline on March 29, 2022. *See* ECF No. 10. Accordingly, Morley's responsive pleading deadline in this action is May 12, 2022.

10. Since filing that stipulation on March 29, 2022, the Parties attended mediation on April 20, 2022, and successfully reached, in principle, the terms of a settlement. The Parties have executed a term sheet, and are in the process of formalizing those terms in a settlement agreement. Plaintiffs in the *Cable* Action have likewise agreed to work towards settlement along with Plaintiffs in the above-captioned action and Morley, and any settlement executed will also include plaintiffs in the *Cable* Action. To that end, plaintiffs in the *Cable* Action voluntarily dismissed the *Cable* Action on April 29, 2022, *see* 1:22-cv-10692-TLL-PTM, ECF No. 10, and will join Plaintiffs in this action in the filing of a Second Amended Class Action Complaint.

11. Therefore, in light of the above, the Parties request that the Court issue an order doing the following:

- a. Setting May 26, 2022 as the deadline for Plaintiffs to file a Second Amended Class Action Complaint that includes the plaintiffs in the *Cable* Action;
- b. Setting July 11, 2022 as the deadline for Plaintiffs to file their Motion for Preliminary Approval of Class Action Settlement; and
- c. Aside from the May 26, 2022 filing of a Second Amended Class Action Complaint and the July 11, 2022 filing of Plaintiffs' Motion for Preliminary Approval of Class Action Settlement, vacating all other deadlines in the action, including Morley's current responsive pleading deadline of May 12, 2022.

IT IS SO ORDERED:

1. Plaintiffs shall file their Second Amended Complaint on or before May 26, 2022;
2. Plaintiffs shall file their Motion for Preliminary Approval of Class Action Settlement on or before July 11, 2022; and
3. Aside from the May 26, 2022 filing of a Second Amended Class Action Complaint and the July 11, 2022 2022 filing of Plaintiffs' Motion for Preliminary Approval of Class Action Settlement, all other deadlines in the above-captioned action are vacated.

Dated: May 13, 2022

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Respectfully submitted this 12th day of May, 2022.

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